

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RODOLFO A. QUILES,

Plaintiff,

vs.

UNION PACIFIC RAILROAD
COMPANY, INCORPORATED, et al.,

Defendants.

8:16CV330

ORDER

This matter is before the court on the defendants' Motion to Stay and Compel Arbitration (Filing No. 12) and Motion to File Reply Brief Out of Time (Filing No. 16). The defendants initially filed the motion to compel arbitration stating the plaintiff agreed to submit to arbitration any claims arising from or relating to his employment relationship when he entered into a stock incentive agreement. **See** Filing No. 13 - Brief p. 1. The plaintiff disputes he entered into any agreement by virtue of his acceptance of a bonus award of stock. **See** Filing No. 14 - Response. In reply, the defendants acknowledge a material issue of fact may remain with respect to whether the agreement exists. **See** Filing No. 21 - Reply p. 3. Specifically, the defendants seek limited discovery regarding the existence of the agreement by means of the plaintiff's deposition and production of certain electronically stored information associated with whether the plaintiff received and accepted the stock incentive agreement when he received notice of the stock award and created an Etrade account. *Id.* at 6-9. Resolution of this factual dispute may help the parties resolve the arbitration issue without court action or narrow the scope of any future motion. Upon consideration,

IT IS ORDERED:

1. The defendants' Motion to Stay and Compel Arbitration (Filing No. 12) is denied without prejudice to reassertion after limited discovery as set forth herein. Absent a joint discovery proposal, such discovery shall be completed within sixty days.

2. The defendants' Motion to File Reply Brief Out of Time (Filing No. 16) is granted. The court considered the reply *instanter*.

Dated this 11th day of October, 2016.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge